

## **d) Waste Management and Recycling**

### **Enabling Legislation**

*5 MRSA § 3305 (A)*: Directs SPO to coordinate the preparation of policies to guide and carry forward the wise and coordinated development of the State's economy and its energy resources and the conservation of the State's natural resources.

*5 MRSA § 3305 (N)*: Directs SPO to coordinate the development of solid waste management policy including:

- (1) Collecting and analyzing solid waste management and recycling data from all available sources including commercial and municipal entities;
- (2) Preparing a solid waste management and recycling plan to be submitted to the Governor and the Legislature by January 1, 1998 and every 5 years thereafter;
- (3) Providing technical and financial assistance to municipalities in waste reduction and recycling activities.

*5 MRSA § 3305 (O)*: Authorizes SPO to own, design, develop, or operate or contract with private parties to operate a solid waste disposal facility, as provided in 38 MRSA, Chapter 24, sub-IV.

*38 MRSA § 1668 and 1669*: Directs SPO to implement an education program (with DEP) relating to mercury-added products and to assist municipalities and regional associations with developing collection programs for mercury-added products.

*38 MRSA § 2122*: Directs SPO to prepare an analysis of and plan for the management, reduction, and recycling of solid waste for the State, every five years.

*38 MRSA § 2123-B*: Directs SPO to establish a broad-based task force once every five years, in conjunction with revisions to the State Waste Management and Recycling Plan, to review state solid waste management policy, including the timeline and process for the development of a state-owned solid waste disposal facility.

*38 MRSA § 2133*: Directs SPO to determine municipal reasonable progress toward the State's 50% recycling goal; provide a program of waste reduction and recycling financial and technical assistance for municipalities; award grants (within available resources) for household hazardous waste collection programs; provide business recycling assistance (as resources allow); develop and implement a program of incentives to encourage public recycling; make demonstration grants to pilot waste reduction, recycling, and composting programs; and collect municipal recycling progress reports.

*38 MRSA § 2134*: Directs SPO to provide recycling marketing assistance.

In addition to ongoing duties, the Legislature frequently calls on SPO to conduct short-

term waste management projects. Examples of these include:

- *P. L. 1999, Ch. 773*: Directs SPO to assist the task force studying the possible effects of the consolidation occurring in the solid waste hauling industry
- *Legislative Resolve, 2001* (not funded): The Legislature's Natural Resource Committee asked SPO to convene a study group to examine plastic recycling programs, opportunities and possible substitution of plastics to reduce the toxicity of the municipal solid waste stream

### **Positions Contributing to the Responsibility**

- (1) Development Program Manager
- (2) Senior Planners
- (2) Planner IIs
- (1) Clerk Typist III
- Shared Administrative Support

### **Description**

In the late 1980s, Maine faced a crisis in solid waste management. At that time, commercial landfills had fewer than five years of capacity. Towns faced skyrocketing costs as they closed municipal dumps, built transfer stations, and trucked and tipped waste at regional landfills and incinerators.

The Office of Waste Reduction and Recycling within the Department of Economic and Community Development provided recycling assistance to towns for two years before the Legislature determined there was a need for a larger state role in municipal solid waste management and for proactive management for waste, rather than simply regulation of disposal. In 1989, the Legislature created the Maine Waste Management Agency (MWMA) and greatly expanded the role of the Office of Waste Reduction and Recycling. The MWMA was funded through various disposal fees that were set aside in a dedicated Solid Waste Management Fund.

Integrating all the functions of solid waste management, the Legislature charged the MWMA with planning for disposal capacity needs, promoting recycling, and siting landfills. The agency developed a state plan to identify capacity needs and to direct state investment; awarded \$12 million in municipal grants (\$10 million of which came from public bonds) to establish recycling programs; coordinated a statewide public education program to promote recycling; and assisted businesses with waste reduction and recycling. As a result, the statewide recycling rate increased from 16% to 40%, the tonnage of solid waste requiring disposal dropped, and thousands of jobs were created as a result of investments (both in the public and private sector) in recycling facilities.

The Legislature also charged the MWMA with locating solid waste disposal sites in response to an expected depletion in existing commercial and municipal landfill capacity and a legislative ban on new commercial landfills. The MWMA invested considerable effort in surveying the State for possible sites. The agency was successful in securing,

permitting, and licensing the landfill site known as Carpenter Ridge in T2 R8 in northern Penobscot County, which remains undeveloped but available for future use.

In 1995, the Legislature dismantled the Maine Waste Management Agency and cut the number of positions from 16 to six while keeping most of the agency's statutory responsibilities in place. The Legislature assigned the majority of these remaining responsibilities to the State Planning Office, with some tasks going to the Department of Environmental Protection, including oversight of the Maine Solid Waste Management Fund that continues to fund positions and programs at both the Department and SPO.

Today, this staff of six at SPO continues to provide technical assistance to communities, regions and organizations with managing municipal solid waste and planning and monitoring municipal and statewide recycling needs and disposal capacity. In the past three years, SPO has awarded over \$750,000 to municipalities and regions to further their recycling and composting efforts and, most recently, to remove mercury added products and other household hazardous wastes from the waste stream. In addition, SPO develops the *Maine Solid Waste Management Plan*, updated every five years, and a biennial report, *Solid Waste Generation and Disposal Capacity*, for the Legislature's Natural Resources Committee. SPO continues to offer a program of public education, technical assistance, and business and school recycling.

With a statewide recycling rate of 40.4%, Maine is a national leader in recycling and composting. Without these efforts, additional incinerators and landfills (neither of which tend to popularly embraced) would be required to manage Maine's waste.

### **Progress towards Goals and Objectives**

To achieve its goal of stimulating the development of the State's economy and the conservation of its natural resources, SPO's strives to reduce reliance on solid waste landfills through recycling and composting. SPO measures its performance by tracking the number of municipalities with effective recycling programs. SPO defines an "effective" program as one that recycles at an annual rate of 35% or more.

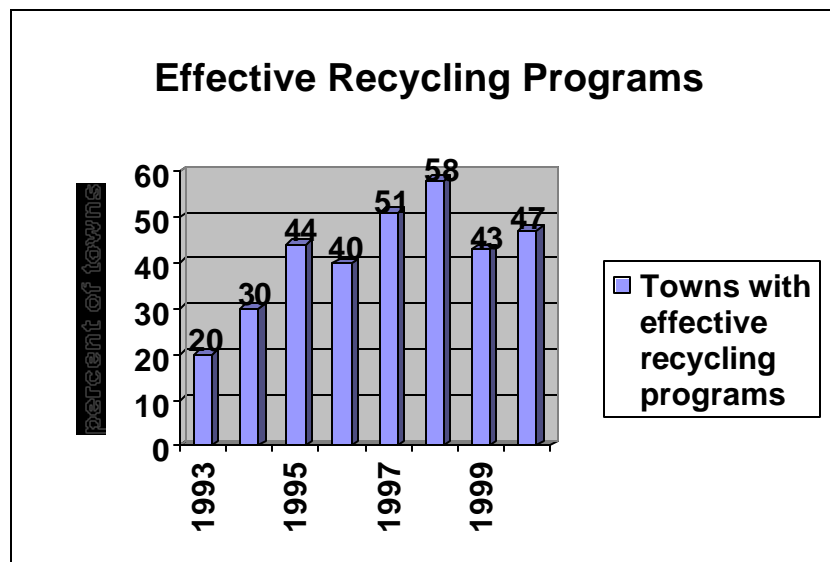


Figure 7: SPO hopes to increase town's recycling rates

## Assessment of Progress

Maine enjoys one of the highest recycling rates in the country. About two-thirds of the municipal solid waste recycled in Maine is accomplished under the beverage container deposit system and through the efforts of commercial generators. Recycling by towns and cities accounts for the rest. Based upon annual solid waste management reports submitted to the Office, SPO calculates the recycling rates of towns and cities annually to assess progress and to advise where they can make improvements in their programs.

Efforts to improve recycling include: fostering local support and endorsement of recycling, promoting the value of recycling (especially by decreasing disposal needs and of those facilities), facilitating markets and demand for collected materials, stimulating public understanding of the importance of recycling, piloting new methods and technologies, and providing municipal assistance and grants.

## Performance Outputs for 2000

- 4,000 requests a year for technical assistance
- 60 on-site visits for assistance
- 5,000 hits to SPO's recycling website
- 98% of population served by recycling programs (increasing over time)
- 5 classes of the Maine Compost School (with 98 graduates)
- 100 schools and 50 municipalities participating in Maine Recycles Week
- 120 attendees at workshops with 50% giving the workshop an excellent rating
- 98% compliance from towns on municipal annual solid waste reports
- Quarterly newsletter distributed via the web and mailed to 1300 recipients
- Two dozen fact sheets on various recycling and waste reduction topics are available
- \$300,000 in grants were awarded to 54 towns to capture mercury added products and other household hazardous wastes and efforts are underway to establish a statewide collection contract to facilitate the removal and recycling of the collected materials
- Staff presentations at over 20 workshops and various meetings each year
- Major sponsor at the Maine Resource Recovery Association's statewide recycling conference, as well as facilitating breakout groups
- Helped organize a Green Campus Conference that had 175 attendees
- Produced summary of municipal solid waste management data, including recycling information, and provided same to Maine communities and interested parties
- Produced GIS maps depicting locations of disposal sites and transfer stations with participating communities and recycling facilities with municipal/regional recycling rates achieved
- Assisted a dozen schools (upon request) set up recycling and composting activities for students
- Completed the *1999 Solid Waste Generation and Disposal Capacity* report for the Legislature's Natural Resources Committee

## Other Evaluative Processes

- *Legislative Oversight*: Every two years, SPO prepares a *Solid Waste Generation and Disposal Capacity Report* for the Legislature's Natural Resources Committee. The

report informs the Committee of the status of disposal capacity within the State and how generation rates impact limited capacity. At the time when four years or fewer of disposal capacity remains within the State, SPO must alert the Legislature so that it may decide whether or not to authorize construction of the Carpenter Ridge landfill.

- *State Waste Management and Recycling Plan*: Every five years, SPO updates the *State Waste Management and Recycling Plan*, which tracks trends in solid waste management. DEP uses the Plan's disposal capacity and waste generation information to determine "public benefit" when permitting solid waste disposal facilities. In addition, the plan lays the groundwork for SPO for identifying needed recycling and waste reduction programs. SPO solicits public comment in the development of the plan.

### **Summary of Rule-making Activity**

The Legislature has granted rule-making authority to SPO to administer the waste management and recycling program as follows:

- to develop criteria for siting state-owned solid waste disposal facilities (Chapter 450) (38 MRSA, section 2153, sub 1)
- to establish procedures to help reimburse municipalities in which a potential solid waste disposal facility site is located for costs associated with participating in siting proceedings (Chapter 454 ) (38 MRSA, section 2103, sub 1, paragraph A)
- to establish a formula and process for reimbursement for loss in property value directly attributable to the construction and operation of a state-owned solid waste disposal facility (Chapter 475 ) (38 MRSA §2175-A)

These rules were adopted by the former Maine Waste Management Agency and transferred to the State Planning Office. SPO does not intend to promulgate new rules or amend any of the existing rules in the upcoming year.

### **Comparison of Federal and State laws**

- *Recycling Goals*: The Federal Government has established a 25% recycling goal, which the State of Maine has clearly exceeded. While not mandatory, the federal goal provides a gauge against which Maine can measure its efforts.
- *Interstate Commerce*: Federal laws and several court decisions governing interstate commerce affect the way Maine manages its solid waste. Private facilities cannot restrict waste from out-of-state without violating interstate commerce laws. It was in light of this constitutional barrier that the Legislature banned the development of future commercial disposal facilities in favor of state-owned ones. The State, as owner, can restrict use of a state-owned disposal facility to solid waste generated within that state.
- *Flow Control*: Until 1994, communities could control where municipal solid waste generated within their boundaries was disposed. Called 'flow control,' this power allowed them to direct waste to a specific disposal facility and was the impetus for the construction and funding of several large-scale incinerators or landfills for municipal

solid waste. To make an operation feasible, it had to be guaranteed a certain volume of waste in order to generate the revenues to cover the operational costs. Thus, towns required private haulers operating within their jurisdiction to bring waste to the town's designated disposal facility. Flow control was lost, however, when the courts determined that it interfered with commerce laws. Private haulers were then freed to take waste wherever they wanted (often wherever they found the best price) thus jeopardizing the financial viability of some facilities unless they could find waste elsewhere. Today, the flow control debate continues. A recent court case upheld the right of communities to direct solid waste to a publicly-owned disposal facility.

### **Constituencies Served**

- Municipal solid waste management programs, including communities and regions
- Individuals
- Schools
- Governor and Legislature
- Other state agencies
- Professional Associations and groups
- Businesses
- General Public

### **Efforts to Coordinate with Others**

The Department of Environmental Protection is the regulatory arm of the State's waste management effort whereas SPO provides policy guidance, education and technical and financial assistance. Law-makers have often held that DEP's regulatory functions would have the greatest affect if the department was not also closely involved in providing guidance and technical assistance to the communities and other entities that they regulate. They felt municipalities and others would be more receptive to opportunities for state assistance if there were no fear of enforcement action.

Today, SPO and DEP collaborate on many projects. The two agencies jointly developed a statewide household hazardous waste management plan aimed at removing mercury added products and Universal Wastes from the municipal solid waste stream. They have also developed and delivered a training and certification program for transfer station operators and other municipal solid waste personnel.

Examples of other successful collaborative efforts include:

- *Buying Recycled Products*: SPO enlists numerous partners to promote not just recycling, but also to buy products with recycled content. This year is the third Maine Recycles Week event, largely supported by donations from solid waste industry leaders, fiber recovery companies, environmental education schools, and others. In addition to activities promoting municipal recycling, a poster contest is held for schools with the winning poster from each grade used in a recycling calendar that is distributed statewide.
- *Northeast Recycling Council*: Maine is a dues-paying member of the Northeast

Recycling Council (NERC), a nonprofit association whose mission is to promote the environmental and economic benefits of recycling and source reduction in the Northeast. NERC uses the combined power of the ten Northeastern states to develop and expand market opportunities for recyclables.

- *Maine Resource Recovery Association (MRRA)*: SPO serves as an ex-officio member on the MRRA Board. MRRA is a statewide member organization that has been helping municipalities with waste management education since 1985 and is the only organization of its type. The MRRA hosts an annual two-day solid waste conference, which SPO co-sponsors, as well as other workshops.
- *MRRA Market Cooperative*: SPO carries out its recycling marketing mandate through this cooperative of towns. Both SPO and the former Maine Waste Management Agency funded the cooperative's start-up and operations until it was financially self-sufficient. The Cooperative brokers materials for its community members, frequently improving value through volume. In 2000, the Cooperative moved 27,100 tons of recycled materials for its 84 member municipalities.
- *Maine Compost Team*: The Maine Compost Team is a cooperative venture between SPO, the departments of Agriculture and Environmental Protection and the University of Maine Cooperative Extension. Four times a year, the Team conducts a weeklong Compost School that provides in-depth training to facilities handling organic wastes, from site design to facility operation and from recipe development to marketing the finished product. In addition to Maine towns and businesses, participants have come from 17 countries, including Scotland, Poland, Argentina, Mexico, Puerto Rico and the Virgin Islands. The team has also traveled to Australia and the Carolinas to present the school. The Maine Compost Team has consistently been recognized for its innovative work, receiving a 1996 Governor's Teamwork Award and in 2000 a legislative proclamation commending its efforts and recognition from the U.S. Environmental Protection Agency.

### **Alternate Delivery Systems**

The State Planning Office uses a variety of delivery systems to streamline processes, leverage funds, save time and money, and reach more people. Alternatives to traditional delivery systems include: contracting with others to provide services, fee-for-service, using volunteers, interns and research fellows, partnering with other organizations, sharing resources, and using electronic mechanisms.

Examples of successful alternative delivery systems in the waste management and recycling include:

- *Contracts for Services*: SPO contracts with regional planning organizations to extend technical service to their member communities. For example, the Hancock County Planning Commission worked to educate residents about the benefits of recycling in Downeast Maine. Last year, SPO funded the Androscoggin Valley Council of Governments to expand their annual household hazardous waste collection event.

- *Pilots:* SPO funds pilot projects that demonstrate improved waste management techniques or that lay the groundwork for the development of a regional or statewide program. SPO has had success in piloting municipal household hazardous waste collection programs, management of mercury added products, and computer and television collection and recycling. SPO has funded four regional, one-time household hazardous waste collection events with the expectation that, once successfully demonstrated in a region, the local governments involved will continue the collection days on their own.
- *Internet Technology:* SPO posts publications, events, projects and general information on its waste management and recycling website, [www.recyclemaine.com](http://www.recyclemaine.com). Of special note is the interactive database for the 'Maine Waste Management Services Directory' that allows visitors to search for vendors for different materials and products. Although it takes a fair amount of effort to maintain the site, it has paid off in a reduction in the number of calls for general recycling information. Conversely, it has increased the complexity of, and therefore the amount of time needed to respond to, the questions SPO does receive.

### **Emerging Policy Issues**

The following waste management and recycling issues are likely to command SPO's time and attention in the coming 1-3 years:

- *Shrinking Disposal Capacity:* Municipal solid waste incinerators often exceed their daily maximum processing capacities, mostly in the summer months, which results in the diversion of solid waste that uses up valuable, limited landfill space. Increasing recycling and composting does reduce waste tonnages, but not completely. Moreover, with the ban on new commercial solid waste disposal facilities and the dwindling present landfill capacity, the State is approaching a disposal capacity shortage. When this happens, the Legislature will need to decide whether or not to open the state-owned Carpenter Ridge site or to revisit the current policies on both the ban of new commercial disposal facilities and the preference for in-state disposal. Since the permitted space at the Carpenter Ridge site is finite, if the Legislature does move to open a state-owned landfill, the State will need to again search for additional landfill capacity. Yet, because of geologic, land use, and transportation constraints, the State does not have an abundance of possible landfill sites.

***SPO's Role:** SPO monitors available disposal capacity within the State and is responsible for reporting biennially to the Legislature. At the time when there is four years or fewer of capacity, SPO will prepare a report to the Legislature with the information they need to decide whether or not to construct and operate the State's Carpenter Ridge landfill. SPO would be further involved in managing or contracting operations of the site if construction proceeds. SPO also has responsibility to assist the State's appointed Facility Siting Board in the event that additional disposal facilities are needed.*

- *Understanding the Value of Recycling:* Municipalities continually search for ways to stretch their limited funding and solid waste programs often receive close scrutiny. While studies have shown that recycling is approximately the same cost as



incineration or landfilling and that towns actually reduce disposal costs, questions remain about the value of recycling. Given that Maine currently recycles as much as it incinerates, it is easy to see that the need for disposal capacity would double without this current recycling effort.

***SPO's Role:** SPO needs to promote the message that the real value of recycling is reducing reliance on incineration and land disposal.*

- ***Growing Attention to Toxicity of Waste:** Programs to divert household hazardous waste, mercury added products, universal waste, toxics and the like, are all gaining in popularity. SPO and DEP commissioned a study to investigate and compare various scenarios to assist in the collection and disposal of household generated toxics prior to the establishment of a statewide management program. The results of the study will provide guidance for the future delivery of SPO's waste management and recycling programs.*

***SPO's Role:** SPO will continue to oversee this project and, with DEP, seek Legislative approval for both establishing a statewide program and the funding to support the effort.*

- ***Leveling of Municipal Recycling:** Recycling is not viewed with the same fervor as it was a decade ago. Recycling at the municipal level is beginning to level off. Yet considering the solid waste that is still being disposed, it is readily apparent that the State still has more to accomplish through recycling.*

***SPO's Role:** SPO will focus on municipal recycling needs, in addition to promoting waste reduction in the next 5-year State Waste Management and Recycling Plan.*

### **Emerging Programmatic Issues**

- ***Replace Fees Diverted from the Solid Waste Management Fund:** Special revenues from the Maine Solid Waste Management Fund finance SPO's waste management and recycling responsibilities. There has been legislative discussion about dedicating a portion of the fund to tire pile management and remediation. This change would reduce the funds available for the programs and staff at SPO. If funds are dedicated to tire pile management and remediation, replacement of lost dollars in the Solid Waste Management Fund will be necessary for SPO to carry out its statutory responsibilities.*

***Background:** Fees levied upon disposal of special solid waste at landfills and tire and vehicle battery fees collected at the point of sale constitute the Solid Waste Management Fund. SPO budgets approximately \$460,000 a year from this fund, a portion of which is set aside for pilot grants and special projects. The fund also supports approximately two dozen positions at the Department of Environmental Protection. Because the source of revenues to the fund is the purchase and disposal of consumer goods, it tends to fluctuate with the economy. In the past, bond proceeds in addition to fund revenues have financed the State's obligation to clean up illegal tire piles.*